IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5521 OF 2007

Sarladevi Prataprao Chougle ....Petitioner
V/s
Sanjay Prataprao Chougule & Ors..... ....Respondents.

Ms.Sharmila Deshmukh, Adv. For the petitioner.

Mr.S.M.Gorwadkar, Adv. For respondent Nos. 1 & 2.

CORAM: A.P.DESHPANDE, J.
14/8/07

PC:

Rule. Rule made returnable forthwith.

Taken up for hearing by consent of both the parties.

At the request of the learned advocate for the petitioner deletion of respondent No.3 is permitted as he is only a formal party.

2. The present petitioner is an old lady aged about 80 years and the suit filed by her is being prosecuted by power of attorney holder. On account of failure on the part of the plaintiff/petitioner to pay process fee in time the trial Court has directed that the evidence of the plaintiff shall be closed. Aggrieved by the said order passed by the trial Court dated 24.7.07 closing the evidence of the plaintiff present writ petition has been filed. By an application at Ex.59 the plaintiff had called for certain documents and the said application was allowed only on account of non-payment of process fee not only the summoning of documents has been

denied but the evidence of the plaintiff has been closed. Submission of the learned counsel for the plaintiff is that the impugned order goes to cause irreparable loss and undue hardship to the plaintiff in as much as the plaintiff's suit is bound to fail. At the time of issuance of notice a direction was issued to the petitioner to deposit costs of Rs.5000/- in this Court and subject to such deposit notice before admission was issued. I am informed that the petitioner has deposited sum of Rs.5000/- towards costs in this Court for being paid to the respondent No.1. Learned counsel for respondent Nos. 1 and 2-original defendants in all fairness does not oppose the petition and hence impugn;ed order dated 24.7.07 stands quashed and set aside. Costs of Rs.5000/- deposited by the petitioner in this Court is permitted to be withdrawn by respondent No.1. Application dated 24.7.07 is allowed and the trial Court is directed to proceed with the suit further in accordance with law. Rule made absolute in above terms.

14.8.07